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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

MAUREEN HARRINGTON

Plaintiff,

v.

DEEPAK DUGAR, M.D.,
A MEDICAL CORPORATION

Defendant

Case No.: 2:22-cv-08230-HDV-E

**DEFENDANT'S MOTION IN
LIMINE TO EXCLUDE EVIDENCE
OF DAMAGES**

Defendant Deepak Dugar, M.D., a Medical Corporation (“Dugar Corp.”), by its undersigned counsel, acting in accordance with the Court’s September 12, 2023 Scheduling Order [Doc. 99], here moves the Court to order Plaintiff Maureen Harrington be precluded from offering evidence of damages based on the licensing values of photographs or uses other than the photograph and use at issue here that is

1 not relevant to any proof of damages Plaintiff could claim. Such evidence includes
2 testimony or exhibits Plaintiff proposes to offer evidencing the price terms for Mr.
3 Harrington's licenses for other photographs or other purposes that do not reflect the
4 licensing value of the photograph here at issue or the use of that photograph by
5 Defendant. Throughout discovery in this matter Plaintiff has repeatedly said she
6 had no evidence that the Subject Photograph had been sold or licensed, and had no
7 records that could so suggest. See, e.g., Plaintiff's Answers to Defendant's
8 Interrogatory No 23, submitted herewith as Exhibit 1; Plaintiff's Response to
9 Defendant's First Request for Production no. 5, submitted herewith as Exhibit 2;
10 and Plaintiff's Response to Defendant's Request for Admissions 38 and 39; a copy
11 of which is submitted herewith as Exhibit 3.

12
13 Plaintiff Maureen Harrington has further testified in her deposition that she
14 has no knowledge of the circumstances of Dugar Corp.'s use of, or the value of, the
15 Subject Photograph. See the transcript of Ms. Harrington's deposition, page 27, l.
16 9-11; 272, l. 11-23; and 277, l. 3-25, submitted herewith as Exhibit 4.

17
18 Plaintiff has no admissible evidence to prove the value of any actual damages
19 he might claim in this matter. Any reference Mr. Harrington may have made to
20 licenses for other photographs for different uses prior to his death are not
21 admissible to prove the value of the photograph at issue in this case. See Universal
22 Picture Company v. Harold Lloyd Corp., 162 F. 2d 354, 375 (9th Cir. 1947) (value
23 of remake rights in one Harold Lloyd film inadmissible to prove actual damages for
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1 infringement of a different film by Lloyd), cited with approval in Frank Music
2 Group v. MGM, Inc., 772 F.2d 505, 515 (9th Cir.) 1985).

3 Even were Plaintiff to claim statutory damages as provided in 17 U.S.C. §
4 504(c), as she is expected to do, she should be precluded from offering evidence of
5 actual damages in support of a claim for statutory damages.
6

7 Defendant's counsel certifies that he has discussed with and sought consent
8 from Plaintiff's counsel for the relief here requested, and that Plaintiff's counsel has
9 declined to consent.
10

11 Respectfully submitted,

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13 By: /s/ Jeffrey L. Squires
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**PROOF OF SERVICE FOR
DEFENDANT'S MOTION IN
LIMINE TO EXCLUDE EVIDENCE
OF DAMAGES**

I hereby certify that on this 13th day of February, 2024, a true and correct copy of Defendant's Motion in Limine to Exclude Evidence of Damages, along with this Proof of Service, was filed and served via the Court's CM/ECF system to the following counsel of record.

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/s/ Jeffrey L. Squires